

STATE OF KANSAS

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

OFFICE OF LOCAL AND RURAL HEALTH

CHARITABLE HEALTH CARE PROVIDER PROGRAM

MANUAL FOR HEALTH CARE PROVIDERS



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CHARITABLE HEALTH CARE PROVIDER PROGRAM

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PROGRAM DESCRIPTION

Purpose: The Charitable Health Care Provider Program began in 1991 as a way to increase the provision of medical care to the medically indigent by providing liability coverage to health care professional in exchange for their services. The Charitable Health Care Provider program now allows health care providers who give care to the medically indigent and to persons receiving medical assistance under programs operated by the Secretary of Social and Rehabilitation Services (e.g. Medicaid, HealthWave and MediKan) to be indemnified for liability purposes under the state Tort Claims Fund. This means that *charitable health care providers* who are sued by a recipient of their care will be defended by the Attorney General's office and the Tort Claim Fund will be the payor of first resort even if there exists other insurance coverage.

Eligible Health Care Providers: The definition of Charitable Health Care Provider includes any person, facility or entity defined as a health care provider in KSA 65-4921¹ and KSA 40-3401, including medical doctors, osteopaths, dentists, dental hygienists, registered nurses, advanced registered nurse practitioners, licensed practical nurses, pharmacists, optometrists, chiropractors, podiatrists, physical therapists and assistants, occupational therapists and assistants, respiratory therapists, and mental health technicians. **Providers must have a current Kansas license.**

Facilities defined as health care providers include medical care facilities licensed by the Kansas Department of Health and Environment, state certified HMOs, professional corporations of health care providers, non-profit corporations of health care providers, licensed psychiatric hospitals and mental health centers or clinics licensed by SRS, excluding state MR institutions and state psychiatric hospitals.

Eligible Charitable Care Recipients: Persons eligible to receive care from *charitable health care providers* include the medically indigent and persons receiving medical assistance under programs operated by the Secretary of Social and Rehabilitation Services (SRS). *Medical indigency* is defined in K.A.R. 28-53-3 as having no health insurance and being at or below 200% of the federal poverty line and entering the system through a point of entry. The medical assistance programs operated by SRS currently include Medicaid, HealthWave and MediKan.

Points of Entry: A Point of Entry into the Charitable Health Care Provider system is a participating local health department, federally qualified health center, or an indigent health care clinic, or an entity organized to provide care or arrange referrals to *charitable health care providers*. An indigent health care clinic, defined in K.S.A. 75-6102(h), is an "outpatient medical care clinic operated on a not-for-profit basis which as a contractual agreement in effect with the Secretary of Health and Environment to provide health care services to medically indigent persons."

¹ Kansas Statutes may be found on the Legislative website at <http://www.kslegislature.org/cgi-bin/statutes/index.cgi>

2003 UPDATE

Since the establishment of the **Charitable Health Care Provider Program in 1991**, several important changes have been made. Each change has expanded the conditions and situations in which **charitable health care providers**² may expect to be defended and extended liability coverage under the Kansas Tort Claims Fund.

With the enactment of SB 34 in 2003, the definition of charitable health care provider has been expanded to include a new category #4, below:

1. Health care providers who enter into an agreement with the Secretary of Health and Environment and who, under such agreement, gratuitously render health care services to *medically indigent persons* or to persons receiving medical assistance under programs operated by the Secretary of Social and Rehabilitation Services and who are a health care provider considered an employee of the state under K.S.A. 75-6120;
2. Health care providers who have entered into an agreement with an indigent health care clinic or local health department which provides health care to *medically indigent persons* or persons receiving medical assistance under programs operated by the Secretary of Social and Rehabilitation Services to render health care services to the patients of such clinic or health department, regardless of whether the clinic or health department charges a fee for the services, if the health provider is considered an employee of the state under K.S.A. 75-6120.
3. Health care providers who, under an agreement with the Secretary of Health and Environment, gratuitously render professional services in children's immunization programs administered by the Secretary; or
4. Dental care providers volunteering at free-standing charitable projects may be considered charitable health care providers. This provision was added to cover dentists and dental hygienists volunteering for the Kansas Dental Association's Mission of Mercy.

This expanded definition plus other changes in Tort Claims Act³ result in the following:

1. **Charitable health care providers may also, under certain circumstances, provide services to persons on Medicaid, HealthWave (or any SRS medical assistance program).** In the original legislation, providers could only see persons defined as '*medically indigent*.'

² Health Care Providers, recognized by the state as **Charitable Health Care Providers**, are considered employees of the state under K.S.A. 75-6120, are covered by the Tort Claims Act for liability purposes and, in the event they are sued by a recipient of their charitable care, will be defended by the Attorney General's office and the Tort Claim Fund will be the payor of first resort even if there exists other insurance coverage.

³ Kansas Statute No. 75-6101 to 75-6115 inclusive. Chapter 75: State Departments; Public Officers and Employees Article 61.—Kansas Tort Claims Act

2. **Charitable health care providers may receive a fee paid by a health department or indigent health clinic.** Previously, only providers in local health departments that were part of a community based primary care pilot program could receive payment.
3. **Local health departments, indigent health clinics and the employees of both have been added to the list of entities that come under the liability protection of the Tort Claims Act.** This happens automatically for the local health departments. *Indigent health clinics* must have a contractual agreement in effect with the Kansas Department of Health and Environment.
4. **Indigent health care clinics** have been defined as not- for- profit outpatient medical care clinics that have a contract with the Secretary of Health and Environment to provide health care services to the medically indigent.
5. **Charitable health care providers including physicians with exempt licenses** may receive payment from a health department or indigent health care clinic.
6. In addition, (though unrelated to the charitable health care provider program) district and deputy district coroners have been added to the list of entities that come under the liability protection of the Tort Claims Fund.
7. The Kansas Tort Claim Fund is established as the **payor of first resort** for suits against charitable health care providers, local health departments and indigent health care clinics.
8. Providers giving free services at children's immunization programs administered by the state and dental professionals volunteering at free-standing charitable projects may be considered charitable health care providers. This provisions were added first to cover health care providers donating their time in Operation Immunize and, in 2003, to cover dentists and dental hygienists volunteering for the Kansas Dental Association's Mission of Mercy.

Without exception, individual health care providers who are not employees of an indigent health care clinic or local health department must enter into an agreement with either the Secretary of Health and Environment, a local health department or an indigent health clinic if they wish to receive status as a ***Charitable Health Care Provider*** and liability protection under the Tort Claim Act.

As the administrator of the **Charitable Health Care Provider Program**, the Kansas Department of Health and Environment is happy to answer inquires about our interpretation of the statutes. However, our opinions are not legally binding and should not be substituted for individual legal opinions.

If you have specific questions about your own professional liability or the liability of your clinical program, your employees, officers or directors, you should contact your attorney.

POINTS OF ENTRY

Definition of a Point of Entry: A Point of Entry (POE) into the *Charitable Health Care Provider* system may be a participating local public health department, a federally qualified health center, an *indigent health care clinic* or an entity organized to arrange referrals to *charitable health care providers*. Some Points of Entry may limit their role to outreach, eligibility determination, registration of patients, referral to the clinics or offices of *charitable health care providers* and submission of required reports. For example, a health care access project may coordinate referrals but not deliver care. Other Points of Entry are also clinics or health centers where, along with the functions above, eligible patients will see health care professionals on site. Care provided need not be free. POEs may have a sliding fee scale of deductions based on the patient household income and family size.

Registering as a Point of Entry:

Local Public Health Departments need to fill out a Point of Entry registration form (Form A) to become a point of entry. Health departments that have already registered in the past, do not need to do so again.

Indigent Health Care Clinics need to enter into a contractual agreement with the Secretary of Health and Environment (Form B). This includes *indigent health care clinics* not-for-profit voluntary clinics meeting the definition of indigent health care clinics, federally qualified health centers, and grant-funded Community Health Centers.

NOTE: Primary Care Access Programs should contact the Charitable Health Care Provider Program office for instructions regarding coordination of reporting requirements of individual *charitable health care providers* who accept referrals. Local projects to coordinate primary care access need not be registered as a Point of Entry.

Functions of a Point of Entry:

- D. Outreach:** the POE is responsible for community awareness of the availability of assistance.
- E. Eligibility Determination:** This intake process involves helping patients fill out the Eligibility Certification Form (Form C) and then verifying that the patient is eligible. This form asks for either annual, monthly or hourly income, number of persons supported by this income and health insurance coverage. A table is included for computing where the patient falls on the federal poverty income guidelines and annual FPL guidelines will be provided to the Point of Entry upon their publication in the Federal Register. The POE is strongly encouraged to assist with enrollment for medical assistance if it appears that the patient or members of their household are eligible.

Persons eligible to receive gratuitous care from charitable health care providers include:

1. medically indigent persons who are defined as having no health insurance and are members of

households being at or below 200% of the federal poverty level who enter the program through a Point of Entry, an

2. persons receiving public medical assistance programs administered by the Secretary of Social and Rehabilitation Services (SRS). These programs include Medicaid, HealthWave and MediKan.

The POE is encouraged to assist eligible persons to apply for medical assistance and to submit claims to SRS for patients enrolled in Medicaid, HealthWave and MediKan seen at their clinical locations.

3. persons receiving dental services targeted but not limited to medically indigent persons on a gratuitous basis at a location sponsored by a not-for-profit organization.

C. Referral: A point of entry should assist in locating a participating charitable health care provider and setting up an appointment for the eligible patient to receive care that is not provided at the Point of Entry.

Points of Entry may use their own referral form or they may use the one provided in the (Section III, Form D). Referral forms are to be sent with the charitable patient for their visit to the charitable health care provider. The provider may be asked to return a part of the form to be retained in the POE's patient record.

A directory of charitable health care providers, listed by county, will be sent to each POE annually. Points of Entry may contact charitable providers in other counties. However, some charitable health care providers are not prepared to accept referrals from patients outside a local service area.

D. Record Requirements: A file must be kept on each charitable patient that may include eligibility forms, copies of medical assistance cards, referral forms, follow-up reports and enough information to be able to locate the official medical record of any patient referred for charitable care.

E. Reporting Requirement: Once a year the point of entry must complete and submit a statistical summary on an Annual Report Form (Section III, Form E). The report asks for unduplicated numbers and types of patients serviced. Annual reports are due on January 31.

PROVIDERS

Physicians, nurses and other health care providers, who are recognized by the state as ***Charitable Health Care Providers***, are considered employees of the state when rendering charitable care to eligible patients. This means they are covered by the Tort Claims Act for liability purposes in the event they are sued by a recipient of their charitable care.

Health care providers must have a current Kansas license in order to apply for ***Charitable Health Care Provider*** status. Physicians may have licenses with either an 'Active' or an 'Exempt' status.

Providers receiving status as a ***Charitable Health Care Provider*** will have their names added to a participating provider directory that is periodically sent to Points of Entry.

Charitable Health Care Providers may see patients at four different sites:

- A. **Local Public Health Department or indigent health care clinic,**
- B. **A private office,**
- C. **Operation Immunize Sites, or**
- D. **A project location sponsored by a not-for-profit organization.**

The location of the patient visit influences other functional elements of the program. A detailed explanation of each type follows:

SITE A: LOCAL PUBLIC HEALTH DEPARTMENT or INDIGENT HEALTH CARE CLINIC

Charitable Health Care Providers offering gratuitous services in this setting:

- 3. May see medically indigent persons or persons receiving medical assistance under programs operated by the Secretary of Social and Rehabilitation Services (SRS). Medical indigency is defined as having no health insurance and being at or below 200% of the federal poverty line and entering the system through a point of entry. Programs operated by the Secretary of Social and Rehabilitation Services (SRS) include Medicaid, HealthWave and MediKan.
- 4. May provide free services or be paid a fee from the health department or indigent health care clinic.
 - a. Providers who intend to give their care gratuitously will need to submit the Agreement to Provide Gratuitous Services (Section III, Form F) in order to receive *Charitable Health Care Provider* status.
 - b. Providers who intend to give their care for a fee paid by the health department or indigent health care clinic will need to have the site submit a copy of their employment agreement or contract to the Department of Health and Environment. Providers who have registered with

the Secretary of Health and Environment in the **past** to provide their services gratuitously and who are **now** going to be paid for their services must have a contract for services with the health department or indigent clinic that will be paying then and that contract must be submitted to the Department of health and Environment.

3. May not bill SRS for services provided to Medicaid, HealthWave, or MediKan recipients.
4. Are not responsible for maintaining documentation of patient eligibility, service delivery or submission of annual reports. This is the responsibility of the Point of Entry.

SITE B: PRIVATE PRACTICE SETTING

Health Care Providers, recognized by the state as *Charitable Health Care Providers*, giving care from their private office are considered employees of the state when rendering charitable care to eligible patients. This means they are covered by the Tort Claims Act for liability purposes in the event they are sued by a recipient of their charitable care.

In their private offices these *Charitable Health Care Providers*:

1. May see medically indigent persons or persons receiving medical assistance under programs operated by the Secretary of Social and Rehabilitation Services (SRS). Programs operated by the SRS include **Medicaid HealthWave** and **MediKan**. Medical indigency is defined as having no health insurance and being at or below 200% of the federal poverty line and entering the system through a *Point of Entry*.

EXCEPTION Potential charitable patients are not obligated to have a referral from a *Point of Entry* to be eligible for charitable services. Please note different procedures to follow if you are seeing patients that have not been referred through a Point of Entry, under '**Documentation**' page 9.

2. May provide services either for free or for a fee paid by a referring Point of Entry (e.g. health department or indigent health care clinic).
 - a. Providers who intend to give their care **gratuitously** will need to submit the **Agreement to Provide Gratuitous Services** (Appendix F) in order to receive *Charitable Health Care Provider* status.
 - b. Providers who intend to give their care **for a fee** paid by a health department or indigent health care clinic will need to have a copy of their employment agreement or contract submitted to the Kansas Department of Health and Environment (KDHE). Providers who have previously registered with the Secretary of KDHE to provide their services gratuitously and who are **now** going to receive payment for their services must have a contract for services with the health department or indigent clinic that will be paying them and that contract must be submitted to the Secretary of KDHE.
 - c. If a provider chooses to provide charitable care to **Medicaid, HealthWave and/or MediKan**

recipients, no charges may be levied nor claims submitted to SRS for payment. Nothing in the language of the Participating Provider Agreement is intended to prevent the health care provider from billing SRS for services to patients with medical assistance from SRS when these patients are not seen on a gratuitous basis as part of the Charitable Health Care Provider Program.

3. Documentation

- a. **If patients are referred through a Point of Entry**, the Point of Entry is responsible for certifying eligibility, maintaining records and submitting annual reports. Patients referred through a Point of Entry will have a referral form. You are asked to complete and return it to the Point of Entry.
- b. If you chose to gratuitously provide services to patients who have not been referred to you through a Point of Entry, for your own protection, confirm those persons' eligibility by using an Eligibility Certification form (Section III, Form C) or by copying their medical assistance card. Retain these in their patient record. Additionally, you are asked to provide a annual accounting of these patients using the Annual Report form (Section III, Form E).

SITE C: Children's Immunization Programs (e.g OPERATION IMMUNIZE) conducted by the Secretary of KDHE

Charitable Health Care Providers who provide care at these sites:

1. must see children presenting at pre-arranged Children's Immunization Program sites, during scheduled hours,
2. must give all care gratuitously, and
3. may apply for Charitable Health Care Provider status on regular forms and on forms prepared for the Children's Immunization Program.

Documentation and reporting will be the responsibility of the Children's Immunization Program, not the individual *Charitable Health Care Providers*.

SITE D: A Project Location Sponsored and Conducted by a Not-For-Profit Organization

Charitable Health Care Providers who provide care at these sites:

1. may provide services to anyone presenting at pre-arranged charitable service sites, during scheduled hours,
2. must give all care gratuitously, and
3. must apply for Charitable Health Care Provider status on regular Provider Participation Forms.

Documentation and reporting may be the responsibility of the not-for-profit sponsor or the individual Charitable Health Care Providers by agreement with the Office of Local and Rural Health. The Not-For Profit Organization need not be eligible as a Point of Entry.

SECTION III

FORMS

- Form A. Point of Entry Registration Form**
- Form B. Indigent Health Care Clinic Agreement**
- Form C. Sample Patient Eligibility Certification (English)**
 - Form C. Patient Eligibility Certification (Spanish)**
 - Income Eligibility Guidelines**
- Form D. Sample Referral Form**
- Form E. Report Form**
- Form F. Health Care Provider Agreement to Provide Gratuitous Services**

CHARITABLE HEALTH CARE PROVIDER PROGRAM
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Office of Local and Rural Health

Point of Entry Registration Form

For Local Health Departments and FQHCs

Clinic Name _____

Address _____

Phone Number _____ FAX: _____

E-Mail: _____

Contact Person _____
Name Title

Medical Director _____

Hours of Operation _____

Please return to:

Kansas Department of Health and Environment
Office of Local and Rural Health
ATTN: Charitable Health Care Provider Program
Curtis State Office Building
1000 SW Jackson, Suite 340
Topeka, KS 66612-1365

CHARITABLE HEALTH CARE PROVIDER PROGRAM
INDIGENT HEALTH CARE CLINIC REGISTRATION

Form B

**AN AGREEMENT BETWEEN
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT**

Office of Local and Rural Health
and

Name of the Facility

NOW on this _____ day of _____, 200____, this agreement is entered into between
the Kansas Department of Health and Environment (**KDHE**) and _____
Name of the Facility

hereinafter referred to as the **IHCC**. In consideration of the promises contained herein the parties agree as follows: **KDHE** agrees to recognize the **IHCC** as an Indigent Health Care Clinic as defined in K.S.A. 75-6102 (h) as amended by Chapter 29 of the 1993 Session Laws.

The IHCC agrees to:

1. provide outpatient health care services on a not for profit basis to medically indigent persons and persons who are covered by Medicaid, HealthWave or any medical assistance program operated by the Department of Social and Rehabilitation Services (SRS).
2. keep on file and make available to Kansas Department of Health and Environment for inspection, copies of employment agreements or contracts entered into with health care providers who are remunerated by the IHCC,
3. provide reports on the numbers of persons seen through the Charitable Health Care Provider Program as specified in agency regulation.

The IHCC Name _____

Address _____

Phone Number _____ FAX: _____

E-Mail: _____

Contact Person _____
Name Title

The IHCC Signature Date

KDHE Signature Date

Certification of Eligibility

Eligibility
Form C

Head of Household

(optional) _____, _____ MI
Last name(s), First

TODAY'S PATIENT, or (optional, list all family members who may become patients)

_____	_____	MI
Last name(s),	First	
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1. Our total family income is \$_____ **per year month hour**
(Circle one)

2. How many individuals are supported by this income? _____

3. If you have any of the following health coverages, please check.

Medicare 9 *Medicaid* 9

HealthWave 9 *Blue Cross* 9 *Other* _____ *or I have no health insurance* 9

DIRECTIONS:

1. Select either the annual, monthly or hourly income from the Income Eligibility Chart
2. Find the number in the first column that shows the number of persons supported by your total family income
3. From family size number, move right along the line to find the income range that includes the total income for all the workers in your family.
4. Find the income range at the top of the column and mark below

- 9 < 100% FPL
9 100-149% FPL
9 150-174% FPL
9 175-200% FPL
9 > 200% FPL

This information is correct and I provide it in order to receive care
under the Charitable Health Care Provider Program. (KSA)75-6120

Signature of Applicant
or Parent or Guardian of Applicant

Date

KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT

Office of Local and Rural Health
Charitable Health Care Provider Program

Certificación de elegibilidad

Eligibility
Form C

Jefe de Familia

(opcional) _____, _____ M
Apellido(s), Nombre

PACIENTE DE HOY, o (opcional, lista todos los miembros de la familia que pudiera ser pacientes)

_____, _____ M
Apellido(s), Nombre
_____, _____
_____, _____
_____, _____
_____, _____
_____, _____

1. Nuestro ingreso total de la familia \$ _____ por **año mes hora**
(Haga un círculo)

2. Cuántas personas están sostenidas de este ingreso? _____

3. Si usted tiene cualquier cubrimiento de seguro de salud, por favor de marcarlo:

Medicare ☐ **Medicaid**

HealthWave ☐ **Blue Cross** ☐ **Otro** _____ **o no tengo seguro de salud** ☐

Esta información es correcta y la proveo para recibir cuidado bajo el Programa de Cuidado de Salud Caratativo. (KSA)75-6120

Firma de solicitante
o padre, madre o persona con costodio

Fecha

DIRECCIONES para la clínica:

- Escoga el ingreso anual, mensual or horario de la **Carta de elegibilidad de ingreso (Income Eligibility Chart)**
- Encuentra el número en la primera columna que muestra el número de personas sostenidas por el ingreso total de la familia.
- Del número del tamaño de la familia (family size number), sigue la línea hasta que encuentra el grupo de ingresos que incluye el ingreso total para todos los trabajadores in la familia.
- Encuentra el grupo de ingresos a la cabeza de la columna y márquelo abajo.
 - ☐ < 100% FPL
 - ☐ 100-149% FPL
 - ☐ 150-174% FPL
 - ☐ 175-200% FPL
 - ☐ > 200% FPL

2004 INCOME and DISCOUNT ELIGIBILITY GUIDELINES

KDHE OLRH prepared February 24, 2004

NUMBER IN HOUSE-HOLD	ANNUAL INCOME				
	<100% FPL: ANNUAL INCOME	100-149% FPL: ANNUAL INCOME	150-174% FPL: ANNUAL INCOME	175-199% FPL: ANNUAL INCOME	>200% FPL ANNUAL INCOME
1	< 9,310	9,310 to 13,964	13,965 to 16,292	16,293 to 18,619	> 18,620
2	< 12,490	12,490 to 18,734	18,735 to 21,857	21,858 to 24,979	> 24,980
3	< 15,670	15,670 to 23,504	23,505 to 27,422	27,423 to 31,339	> 31,340
4	< 18,850	18,850 to 28,274	28,275 to 32,987	32,988 to 37,699	> 37,700
5	< 22,030	22,030 to 33,044	33,045 to 38,552	38,553 to 44,059	> 44,060
6	< 25,210	25,210 to 37,814	37,815 to 44,117	44,118 to 50,419	> 50,420
7	< 28,390	28,390 to 42,584	42,585 to 49,682	49,683 to 56,779	> 56,780
8	< 31,570	31,570 to 47,354	47,355 to 55,247	55,248 to 63,139	> 63,140

For family units with more than 8 members, add \$3,180 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

MONTHLY INCOME

NUMBER IN HOUSE-HOLD	<100% FPL: MONTHLY INCOME	100-149% FPL: MONTHLY INCOME	150-174% FPL: MONTHLY INCOME	175-199% FPL: MONTHLY INCOME	>200% FPL MONTHLY INCOME
1	< 776	776 to 1,163	1,164 to 1,357	1,358 to 1,551	> 1,552
2	< 1,041	1,041 to 1,560	1,561 to 1,820	1,821 to 2,081	> 2,082
3	< 1,306	1,306 to 1,958	1,959 to 2,284	2,285 to 2,611	> 2,612
4	< 1,571	1,571 to 2,355	2,356 to 2,748	2,749 to 3,141	> 3,142
5	< 1,836	1,836 to 2,753	2,754 to 3,212	3,213 to 3,671	> 3,672
6	< 2,101	2,101 to 3,150	3,151 to 3,675	3,676 to 4,201	> 4,202
7	< 2,366	2,366 to 3,548	3,549 to 4,139	4,140 to 4,731	> 4,732
8	< 2,631	2,631 to 3,945	3,946 to 4,603	4,604 to 5,261	> 5,262

HOURLY INCOME

NUMBER IN HOUSE-HOLD	<100% FPL: HOURLY INCOME	100-149% FPL: HOURLY INCOME	150-174% FPL: HOURLY INCOME	175-199% FPL: HOURLY INCOME	<200% FPL HOURLY INCOME
1	< 4.48	4.48 to 6.70	6.71 to 7.82	7.83 to 8.94	> 8.95
2	< 6.00	6.00 to 9.00	9.01 to 10.50	10.51 to 12.00	> 12.01
3	< 7.53	7.53 to 11.29	11.30 to 13.17	13.18 to 15.06	> 15.07
4	< 9.06	9.06 to 13.58	13.59 to 15.85	15.86 to 18.12	> 18.13
5	< 10.59	10.59 to 15.88	15.89 to 18.52	18.53 to 21.17	> 21.18
6	< 12.12	12.12 to 18.17	18.18 to 21.20	21.21 to 24.23	> 24.24
7	< 13.65	13.65 to 20.46	20.47 to 23.88	23.89 to 27.29	> 27.30
8	< 15.18	15.18 to 22.76	22.77 to 26.55	26.56 to 30.35	> 30.36

* SOURCE: [Federal Register: February 13, 2004
Vol 69, Number 30, Page
7335-7338][DOCID:fr13fe04-155]
<http://www.census.gov/hhes/www/poverty.html>

Calculated monthly and hourly wages are for determining eligibility for programs or for fee reductions based on family income in the Charitable Health Provider and Farmworker Health Voucher Program

The following table provides an example of a sliding-fee schedule

EXAMPLE					
Sample DISCOUNT - SLIDING-FEE SCHEDULE					
	<100% FPL: ANNUAL INCOME	100-149% FPL: ANNUAL INCOME	150-174% FPL: ANNUAL INCOME	175-199% FPL: ANNUAL INCOME	>200% FPL ANNUAL INCOME
Discount	100%	75%	50%	25%	0%
Sliding-Fee	Free care	Pay 25% of Charges	Pay 50% of Charges	Pay 75% of Charges	Pay Full Charges
Accounting Code	P ₀	P ₁	P ₂	P ₃	P ₄

REFERRAL FORM

*Localize the Referring Charitable Health Care Provider Information here,
delete this line and copy form*

**Sample
Referral Form D**

Referral From: _____
Physical Street Address: _____
Physical Location (City) _____ (State) _____ (Zip) _____ - _____
Telephone #: _____ Fax#: _____
Email Address (if preferred) : _____

Patient

Name: _____ Date of birth: ____/____/____ Gender: __M__F
Last, First Middle Initial

Authorization for Release of Data

I authorize release of medical information (unless listed below) on my behalf to facilitate this referral.

Do not release _____

Signature of patient, _____ Date: ____/____/20____
parent, or guardian:

Referral Appointment to: _____

Date: _____

Time: _____ Street address _____

Phone: _____

Reason for Referral: Recommendation (Use back for additional information)

Report of Initial Visit: (Use back for additional information)

Person Making Report _____

Please complete and return to the office at the top:

ANNUAL REPORTING FORM

Point of Entry or
Provider

Name_____

Location, Street Address:_____

City, State and Zip code_____

County_____

☐

1. No activity to report (skip all others 2-4)

☐

2. Total number of patients meeting medical indigency criteria

☐

3. Total number of patients receiving SRS medical assistance
(if applicable)

☐

4. Total number of unduplicated patients (if available)

☐

5. Total Charitable visits for _____
Year

ANNUAL REPORTS ARE DUE BY JANUARY 30 FOR THE PREVIOUS CALENDAR YEAR

FEBRUARY 10, 2003

CHARITABLE HEALTH CARE PROVIDER PROGRAM

An Agreement between
a Charitable Health Care Provider and
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Office of Local and Rural Health

To Provide Gratuitous Services

Name _____, _____ MI
Last First

Date Of Birth: ____/____/____

Address _____
Street Address

City State Zip

Daytime Phone _____ FAX _____

Profession (MD, RN, DDS, etc.): _____

License or Registration Number: _____

My signature on this agreement constitutes my intention to gratuitously provide care to medically indigent patients which may include patients covered by medical assistance programs operated by the Kansas Department of Social and Rehabilitation Services (SRS), (including Medicaid, HealthWave and MediKan) when those patients are seen pursuant to the terms of the Charitable Health Care Provider Program. I understand that in order to be considered gratuitous, no charges may be levied nor claims submitted to SRS for payment. However, nothing in this agreement shall be construed to waive my right to bill SRS for services provided to persons covered by medical assistance programs operated by SRS when such patients are not seen on a gratuitous basis as part of the Charitable Health Care Provider Program.

Further, I understand that if I choose to provide services gratuitously to patients who are not referred through a Point of Entry, it is my responsibility to ensure that patient eligibility records are maintained and periodic statistical reports submitted to the Charitable Health Care Provider Program.

Signature of Applicant

Date

QUESTIONS AND ANSWERS

Q. Who can become a Charitable Provider?

A. Any person or facility defined as a health care provider in KSAs 40-3401 and 65-4921, including physicians, dentists, dental hygienists, registered nurses, physician assistants, advanced registered nurse practitioners, pharmacists, optometrists, licensed practical nurses, chiropractors, podiatrists, physical therapists and assistants, occupational therapists and assistants, respiratory therapists, and mental health technicians.

Facilities defined as health care providers include medical care facilities licensed by the Kansas Department of Health and Environment, professional corporations of health care providers, community health centers, rural health clinics and mental health centers or clinics licensed by SRS, excluding state institutions for the mentally retarded and the state psychiatric hospital.

Q. How does someone become a Charitable Provider?

A. To become a Charitable Provider, a health care provider must enter into an agreement with the Secretary of Health and Environment or a local health department or indigent health care clinic that provides services to the medically indigent or persons on public medical assistance. To do this, an application must be completed and returned to one of the above referenced entities. If an agreement is entered into with the Secretary of Health and Environment, a provider may provide care at no charge in order to be covered by the CHCP provisions. Providers entering into agreements with local health departments or indigent health care clinics may receive remuneration for their services. A copy of the provider contract must be on file for viewing by the Charitable Health Care Provider Program.

Q. I am currently registered as a Charitable Health Care Provider with the Secretary of Health and Environment. May I bill the Medicaid HealthWave and MediKan recipients I see in my office?

A. Yes, but you will only be covered by the CHCP provisions in the Kansas Tort Claims Act if you do so gratuitously. When you provide your services through health departments and indigent clinics you will be covered by the CHCP provisions when you render care gratuitously or for a fee paid by the department or clinic. Nothing in the Act prevents you from seeing clients and billing SRS when the care is not intended as a charitable service.

Q. Does the care that clients receive from charitable providers have to be free?

A. No. There may be income-based sliding scale fees charged to clients of access point agencies even if the provider receives no payment. Additionally, a provider may receive compensation directly from a local health department or indigent health care clinic, but direct SRS payments to individual providers are prohibited.

Q. I see indigent and Medicaid/MediKan or HealthWave patients through a local health department or medically indigent clinic. I am paid for my services by the clinic or health department. Must I register as a Charitable Provider?

A. No. As a point of entry the site is required keep a copy of the contract on file in the event that it is needed for litigation involving care provided under the Charitable Health Care Provider program.

Q. **May charitable providers file a claim for reimbursement from the Department of Social and Rehabilitation Services when they see a Medicaid or HealthWave patient?**

A. Not if it is delivered at an access point agency. However, as an point of entry, local health departments and indigent health care clinics may file for their programs.

Q. **Do Medicaid/MediKan or HealthWave patients have to enter the Charitable Health Care Program through a point of entry? Or can they go directly to a charitable provider?**

A. No, they may go directly to a charitable provider.

Q. **Are local health departments and indigent health care clinics and their employees covered under the Tort Claims Act?**

A. Yes. Local health departments and their employees are now automatically provided liability protection under the Tort Claims Act for professional services rendered. This coverage extends to indigent health care clinics that have entered into a contract to provide health care services to the medically indigent.

Q. **If employees of health departments and indigent health care clinics are now covered under the Tort claims Act, do they also need to register as Charitable Health Care Providers?**

A. No.

Q. Can a health department or indigent health clinic charge patients a fee based on income eligibility guidelines without jeopardizing the liability coverage of their charitable providers?

A. Yes. Fees based on income eligibility guidelines may be charged by the health department or clinic. It will not affect the charitable providers' liability coverage under the Tort Claim Act.

Q. What happens if a charitable provider gets sued?

A. The Tort Claim Fund is the payor of first resort even if there exists other insurance coverage. However, this is untested in a court of law. If a charitable provider is sued by the recipient of his or her charitable professional services, they must request representation from the state within 15 days. A suit is commenced when a summons and a petition is served on a defendant. Charitable providers served with a summons and a petition should immediately contact the Attorney General's office at (785) 296-2215.

Q. Does being a Charitable Health Care Provider obligate a doctor to see a specific number of patients?

A. No.

Q. Does a provider registered to be a charitable health care provider for Operation Immunize, the children immunization clinic, have to register again if they want to do charitable work for a local health department or indigent clinic?

A. Yes.

Q. Do they have to re-register to help in each future Operation Immunization?

A. No. Health care providers who registered to be charitable health care providers for Operation Immunize, and who received a letter signed by Secretary of Health and Environment conferring charitable health care provider status, do not need to re-register.



KANSAS TORT CLAIMS ACT

75-6102- AND - 75-6120

DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

ARTICLE 61. --KANSAS TORT CLAIMS ACT

75-6102. Definitions. [See Revisor's Note] As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) "Employee" means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider. Employee includes any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor, but does not otherwise include any independent contractor under contract with a governmental entity except (1) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections, (2) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor; and (3) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program. "Employee" also includes an employee of an indigent health care clinic. "Employee" also includes former employees

for acts and omissions within the scope of their employment during their former employment with the governmental entity.

(e) "Community service work" means public or community service performed by a person (1) as a result of a contract of diversion entered into by such person as authorized by law, (2) pursuant to the assignment of such person by a court to a community corrections program, (3) as a result of suspension of sentence or as a condition of probation pursuant to court order, (4) in lieu of a fine imposed by court order or (5) as a condition of placement ordered by a court pursuant to K.S.A. 38-1663, and amendments thereto.

(f) "Charitable health care provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician's assistant registered by the state board of healing arts or a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

- (1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of social and rehabilitation services, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;
- (2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children's immunization programs administered by the secretary;
- (3) a local health department or indigent health care clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of social and rehabilitation services gratuitously or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120 and amendments thereto. Professional services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3). or
- (4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq. and amendments thereto or dental hygienist services defined by K.S.A. 65-1456 and amendments thereto that are targeted, but are not

limited to medically indigent persons, and are provided on a gratuitous basis at a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location. Except that such dentistry services and dental hygienist services shall not include "oral and maxillofacial surgery" as defined by Kansas administrative regulation 71-2-2, or use sedation or general anesthesia that result in "deep sedation" or "general anesthesia" as defined by Kansas administrative regulation 71-5-1.

(g) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(h) "Indigent health care clinic" means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(i) "Local health department" shall have the meaning ascribed to such term under K.S.A. 65-241 and amendments thereto.

History: L. 1979, ch. 186, § 2; L. 1982, ch. 374, § 1; L. 1983, ch. 299, § 1; L. 1987, ch. 353, § 1; L. 1990, ch. 146, § 4; L. 1990, ch. 329, § 2; L. 1990, ch. 149, § 9; L. 1991, ch. 268, § 1; L. 1991, ch. 182, § 5; L. 1993, ch. 29, § 2; L. 1994, ch. 343, § 1; L. 1995, ch. 82, § 7; L. 1996, ch. 91, § 4; L. 1997, ch. 156, § 91; L. 2000, ch. 164, § 1; July 1.

75-6120. Agreements for provision of gratuitous services by charitable health care providers; providers considered employees under act; rules and regulations; effect of claim on rate or cancellation of policy. (a) The secretary of health and environment may enter into agreements with charitable health care providers in which such charitable health care provider stipulates to the secretary of health and environment that when such charitable health care provider renders professional services to a medically indigent person such services will be provided gratuitously. The secretary of health and environment shall adopt rules and regulations which specify the conditions for termination of any such agreement, and such rules and regulations are hereby made a part of any such agreement. A charitable health care provider for purposes of any claim for damages arising as a result of rendering professional services to a medically indigent person, which professional services were rendered gratuitously at a time when an agreement entered into by the charitable health care provider with the secretary of health and environment under this section was in effect, shall be considered an employee of the state under the Kansas tort claims act.

(b) The secretary of health and environment shall establish by rules and regulations eligibility criteria for determining whether a person qualifies as a medically indigent person.

(c) Any claim arising from the rendering of or failure to render professional services by a charitable health care provider brought pursuant to the Kansas tort claims act shall not be considered by an insurance company in determining the rate charged for any professional liability insurance policy for health care providers or whether to cancel any such policy.

(d) This section shall be part of and supplemental to the Kansas tort claims act.

History: L. 1990, ch. 329, § 1; L. 1991, ch. 268, § 3; April 25.

KANSAS ADMINISTRATIVE RULES AND REGULATIONS

Kansas Administrative Regulation No. 28-53

28-53-1 Definitions. (a) "Agreement" means a written understanding between the department and a charitable health care provider regarding the rendering of professional services to medically indigent persons.

b. "Department" means the Kansas department of health and environment.

c. "Federally qualified health center" means a center which meets the requirements for federal funding under 42 USC section 1396d (1) of the public health service act, and which has been designated as a "federally qualified health center" by the federal government.

d. "Indigent health care clinic" means an outpatient medical care clinic designed to provide care to the medically indigent under the medical direction of a qualified person licensed to practice medicine and surgery and licensed by the Kansas board of healing arts.

e. "Local health department" means county, city-county and multi-county public health units established under the authority of K.S.A. 65-201.

f. "Secretary" means the secretary of the Kansas department of health and environment. (Authorized by and implementing L. 1990, ch. 329, sec. 1; effective April 1, 1991; amended July 13, 1992.

28-53-2 Agreement (a) Each person applying for an agreement shall submit a completed application to the department on forms prescribed by the secretary.

b. An agreement may be terminated by the secretary or the charitable provider with 30 days advanced written notice to the department. Failure of the provider to maintain proper licensure by the appropriate professional licensing agency shall constitute immediate cancellation of the agreement. (Authorized by and implementing L. 1990, ch. 339, sec. 1; effective April 1, 1991; amended July 13, 1992.)

CHPWKAR

July 27, 1992

28-53-3 Eligibility criteria for medically indigent. Persons shall qualify as medically indigent if they are:

a. determined to be a member of a family unit earning at or below 200% of poverty income guidelines based on the annual update of "poverty income guidelines" published in the federal register by the United States department of health and human services.

b. not indemnified against costs arising from medical and hospital care by a policy of accident and sickness insurance, an employee health benefits plan, a program administered by the state or federal government, or any such coverage; and

c. seek health care at:

(1) an indigent health care clinic;

(2) a federally qualified health center; or

(3) a participating local health department. (Authorized by and implementing L. 1990, ch. 329, sec. 1; effective April 1, 1991.)

28-53-4 Records and Reports (a) Charitable health care providers shall ensure that the clinics through which they provide care shall:

(1) maintain completed forms prescribed by the secretary and signed by the patient which certify that the individual receiving care pursuant to an agreement is medically indigent; and

(2) submit completed quarterly activity reports to the department on forms prescribed by the secretary.

b. Failure to comply with the requirements of this section shall be grounds for cancellation of the agreement. (Authorized by and implementing L. 1990, Ch. 329, sec. 1; effective April 1, 1991.)

28-53-5 Referrals. Medically indigent persons may receive professional services from health care providers in other locations upon referral from a federally qualified health center, an indigent health care clinic, or participating local health department. Any such referrals shall be reflected in the records of the referring entity. (Authorized by and implementing L. 1990, ch. 329, sec. 1; effective April 1, 1991.)